

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ARMANDO LONGORIA, SR., §
§
Petitioner, §
VS. § CIVIL ACTION NO. C-09-128
§
RICK THALER, §
§
Respondent. §

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION TO DISMISS**

On November 30, 2009, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion to dismiss (D.E. 11) be granted, that the petition be dismissed, and that a certificate of appealability be denied. On December 16, 2009, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion to dismiss is granted and petitioner's petition is dismissed. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 2nd day of February, 2010.



Janis Graham Jack
United States District Judge